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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,998	04/20/2001	Philip A. Gale	045404.0002	3407
20790 75	590 07/15/2002		•	
AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P. 300 WEST 6TH STREET SUITE 2100			EXAMINER	
			GERSTL, ROBERT	
	AUSTIN, TX 78701			
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			1626	
			DATE MAILED: 07/15/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.	,							
Examiner Robert Gerst 1628 1628 1628		Applicati n No.	Applicant(s)					
Robert Gerst 1626		09/838,998	GALE					
- The MAILING DATE of this communication appears on the cover sheet with th correspondence address Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extendence of term mylb a variable under the provisions of 37 CPR 1.73(d), in no event, however, may a reply be timely filled Extendence for may be a problem under the provisions of 37 CPR 1.73(d), in no event, however, may a reply be timely filled If the period for reply specified above is less than thirty (30) days, at pay, within the datablary minimum of bishy (30) days, will be considered filmly. If the period for reply specified above is less than thirty (30) days, at pay with the datablary minimum of bishy (30) days, will be considered filmly. If the period for reply is period from the time than the datablary period will apply and will explicit (30) (MONTHS from the mailing date of the communication. Fill the period for reply is period from the set of the communication. Fill the period for reply is period from the set of the communication. Fill the period for reply is period from the set of the communication. Fill the period for reply is period from the set of the communication. Fill the period for the communication of the communication of the communication. Fill the period for the period for reply with the set of the communication. Fill the period for the period for reply in the period for formal matters, prosecution as to the ments is closed in accordance with the practice under £x parts Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1, 4 and 95-110 is/are pending in the application. 4) Claim(s) 1, 4 and 95-110 is/are pending in the application. 5) Claim(s) 3 - 110 is/are rejected. 7) Claim(s) 1, 4 and 95-110 is/are rejected. 7) Claim(s) 1, 4 and 4 is/are rejected. 7) Claim(s) 1, 5 and 4 is/are rejected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filled on 1, is/are:	Office Action Summary	Examiner	Art Unit					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of term may be areflable under the provisions of 37 CFR 1.35(a), in no event, however, may a nepty be timely filed Extensions of term may be areflable under the provisions of 37 CFR 1.35(a), in no event, however, may a nepty be timely filed Extensions of terms purply be areflable under the provisions of 37 CFR 1.35(b), in no event, however, may a nepty be timely filed Extensions of terms purply be areflable under the provision of 37 CFR 1.35(b), in the date of the specific date of the communication, even it timely filed, may record a the specific date of the communication, even it timely filed, may record a the specific date of the communication, even it timely filed, may record a the specific date of the communication, even it timely filed, may record a the specific date of the communication, even it timely filed, may record a the specific date of the communication, even it timely filed, may record a the specific date of the communication, even it timely filed, may record a the specific date of the communication, even it timely filed, may record any even it timely filed, and the specific date of the communication of the specific date of the communication. 1)		<u> </u>	<u> </u>					
THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be waited under be provision of 37 CFR i. 13(6). In no event, however, may a reply be timely filled after SX (8) MONTHS from the mailing date of this communication. I shall be a start of the provision of the communication of the communica	· ·							
2a) This action is FINAL. 2b) This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1.4 and 95-110 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 95-110 is/are allowed. 6) Claim(s) 95-110 is/are allowed. 6) Claim(s) are subject to to the drawing for requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: allowed or bill objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: all proved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All bill Some * c) None of: 1. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.	A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
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14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152)	3. Copies of the certified copies of the priority documents have been received in this National Stage							
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- 1. Claim1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The meso carbon is recited as being not being connected to an atom other than H. However since only one non-H is required to make the carbon asymmetric, the other may be H. The scope of the 2 substituents is not clear from the recitation.
- 2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Furusho (C83) for the reasons of record in 08/833379.
- 4. Claim 4 was cancelled in the preliminary amendment and a new claim should be presented. For applicant's convenience, it is acted on informally,

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Gerstl whose telephone number is 703 308-4531. The examiner can normally be reached on Mon.-Fri. (7-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe McKane can be reached on 703 308-4537. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308-4426 for regular communications and 703 308-4426 for After Final communications.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1235.

Róbert Gérstí
Primary Examiner
Art Unit 1626

RG July 10, 2002